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from which the wine is to be withdrawn, the exporter must, at the time of withdrawal of the wine, prepare a notice of the withdrawal and shipment on TTB Form 5100.11. TTB approval is not required if the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn.

(b) *Manufacturing bonded warehouse.* The proprietor of the manufacturing bonded warehouse must make an application on TTB Form 5100.11 to withdraw wine without payment of tax for transportation to and deposit in such warehouse before withdrawal of the wine.

(c) *Action by appropriate TTB officer.* Where, under the provisions of paragraphs (a) and (b) of this section, an TTB Form 5100.11 is submitted to the appropriate TTB officer for approval, the appropriate TTB officer shall, if satisfied that the application is in order and that the applicant has on file a good and sufficient bond, approve the application and forward it to the proprietor of the premises from which the wines are to be withdrawn.

(d) *Restriction on shipment.* Where, under the provisions of paragraphs (a) and (b) of this section, prior approval of TTB Form 5100.11 by the appropriate TTB officer is required, the proprietor of the bonded wine cellar may not ship the wine until the approved TTB Forms 5100.11 have been received by him. In such cases, the proprietor of the bonded wine cellar shall, on removal of the wines, execute his certificate of removal on TTB Form 5100.11.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.122, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 28.123 Export marks.

(a) *General.* In addition to the marks and brands required to be placed on packages or cases of wine at the time they are filled under the provisions of part 24 of this chapter, the proprietor shall mark the word “Export” on the Government side of each case or Government head of each container before removal from the bonded premises for

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any exportation authorized under this subpart, including withdrawals under 26 U.S.C. 5362(c)(4).

(b) *Exception.* When containers are being removed to a contiguous manufacturing bonded warehouse, the proprietor need not place the word “Export” on the containers if the appropriate TTB officer finds the omission will not jeopardize the revenue.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362, 7805))

[T.D. ATF-82, 46 FR 21158, Apr. 9, 1981, as amended by T.D. ATF-88, 46 FR 39816, Aug. 5, 1981; 47 FR 20303, May 12, 1982; T.D. ATF-299, 55 FR 25033, June 19, 1990; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.124 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of wines withdrawn without payment of tax under this subpart shall be made under the provisions of subpart M of this part.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 28.125 Disposition of forms.

On removal of the wines from the premises of the bonded wine cellar, the proprietor shall forward one copy of TTB Form 5100.11 to the appropriate TTB officer, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by subpart M. Where the shipment is for delivery for use on aircraft, the copy marked “Consignee’s Copy”, provided for in § 28.122, shall be forwarded to the airline company at the airport.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71724, Dec. 11, 1979; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.126 Proprietor’s report.

The records of the proprietor of the bonded wine cellar shall reflect the quantity of wine removed without payment of tax under this subpart, and he

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shall report the quantity of wine so removed on TTB F 5120.17.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-299, 55 FR 25033, June 19, 1990; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.127 Losses.

Where there has been a loss of wine while in transit from a bonded wine cellar to a port of export, a foreign-trade zone, a vessel or aircraft, a customs bonded warehouse, or a manufacturing bonded warehouse, the provisions of subpart O of this part, with respect to losses of wine after withdrawal without payment of tax and to claims for remission of the tax thereon, shall be applicable.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, 1382, (26 U.S.C. 5370, 5371))

[T.D. ATF-88, 46 FR 39816, Aug. 5, 1981]

RETURN OF WINES TO BONDED WINE CELLAR

§ 28.130 General.

On application of the proprietor of a bonded wine cellar, wine which has been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for use on vessels and aircraft, or for deposit in a foreign-trade zone, in a manufacturing bonded warehouse, or in a customs bonded warehouse, may for good cause be returned to the bonded wine cellar from which withdrawn, for storage pending subsequent removal for lawful purposes. However, such wine must be returned before being exported, laden as supplies or used aboard vessels or aircraft, or deposited in a foreign-trade zone, in a manufacturing bonded warehouse, or in a customs bonded warehouse, as the case may be.

[T.D. ATF-88, 46 FR 39816, Aug. 5, 1981]

§ 28.131 Application for return of wines withdrawn without payment of tax.

Where a proprietor of a bonded wine cellar desires to return wines to his bonded wine cellar as provided in § 28.130, he shall submit a written application, in duplicate, to the appropriate TTB officer, for approval of the return

of the wines. The application shall show.

(a) Name, address, and registry number of the bonded wine cellar.

(b) Name and address of the principal on the bond under which the wines were withdrawn.

(c) Serial number of the TTB Form 5100.11 and the date withdrawn.

(d) Present location of wines to be returned.

(e) Kind of wines to be returned.

(f) Number, kind, and serial numbers of the containers to be returned. In the case of bottled wines, the number and size of the bottles in each case.

(g) Total quantity in wine gallons for each separate tax class of wines to be returned.

(h) Reason for return of the wines.

The application shall be executed under the penalties of perjury. On approval of the application the appropriate TTB officer shall return both copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1380; 26 U.S.C. 5362)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71724, Dec. 11, 1979; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.132 Responsibility for return of wine.

The principal on the bond under which the wines were withdrawn without payment of tax shall be responsible for arranging the return of the wines to the bonded wine cellar from which they were withdrawn. In case of emergency, the principal on the bond may arrange the return of wines to bonded premises without an approved application, but such wines shall be kept separate at the bonded premises and shall not be recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in § 28.131. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the wines are returned before the TTB Form 5100.11 has been filed with the customs official. The customs officer shall, if he finds that the wines are eligible for return under § 28.130, accept the approved application as authority for the return